

RESTRICTIVE COVENANT

OWNER SOUTH URBAN LOFTS, LTD , a Texas limited partnership

ADDRESS 608 West 24th Street, Austin, Travis County, Texas 78745

CONSIDERATION Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged

PROPERTY Those three tracts of land described as follows

 Tract One Lot 1, ST ELMO TEL ADDITION, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 56, Page 12 of the Plat Records of Travis County, Texas

 Tract Two Lot 1, Block "A," CHEN RESUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat thereof recorded under Document No 200400167 of the Official Public Records of Travis County, Texas

 Tract Three 0 896 acres of land, more or less, out of Lot 2, ST ELMO-TEL ADDITION, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 56, Page 12 of the Plat Records of Travis County, Texas, and being more particularly described on Exhibit A attached hereto and incorporated into this Restrictive Covenant

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions,

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its successors, and assigns

- 1 All residential and commercial development on the Property, or any part thereof, shall comply with Austin Green Building Program (GBP) for a minimum two-star rating. In addition, as a component of complying with the two star rating requirements, the energy model must show the building performs 25% better than City of Austin Energy Code Certification shall be met as specified by the version of the rating system current at the time of design.
- 2 If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such

person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions

- 3 If any part of this agreement or covenant is declared invalid, by judgment or court order the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect
- 4 If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it
- 5 This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination

EXECUTED this the 7 day of June, 2007

OWNER

SOUTH URBAN LOFTS, LTD ,
a Texas limited partnership

By E Mitch Ely, Inc , a Texas corporation,
General Partner

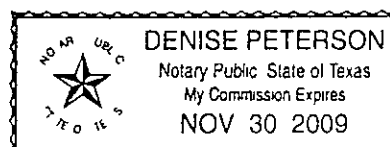
By [Signature]
E Mitch Ely, President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 7 day of June, 2007, by E Mitch Ely, President of E Mitch Ely, Inc , a Texas corporation, on behalf of said corporation as the General Partner of SOUTH URBAN LOFTS, LTD , a Texas limited partnership on behalf of said limited partnership

[Signature]
NOTARY PUBLIC, State of Texas

AFTER RECORDING, PLEASE RETURN TO



AUSTIN SURVEYORS

P.O. BOX 18014
AUSTIN TEXAS 78718

2185 JUSTIN LANE #103
(512) 454-6605

Accompaniment to plat 1500-1P

FIELD NOTES FOR 0.896 ACRES OF LAND

All that certain tract or parcel of land situated in the Isaac Decker League in Travis County Texas and being part of Lot 2 of the St. Elmo - Tel Addition to the City of Austin recorded in Book 56 Page 12 of the Plat Records of Travis County and also being that same 0.90 acre tract described in a deed to the Calbow Living Trust recorded in Doc. 2005224032 of the Real Property Records of Travis County Texas and being more particularly described by metes and bounds as follows

BEGINNING at a PK nail found in pavement on the East line of South Congress Avenue, in the Southwest corner of the above mentioned said Calbow tract and the Northwest corner of the Chen Resubdivision as recorded in Doc. 200400167 of the above mentioned Real Property Records for the Southwest corner of this tract.

THENCE N 30°00'47" E with the East line of South Congress Avenue 22.08 feet to a capped iron pin set in the Southwest corner of a 1.156 acre tract conveyed to Congress Access, Ltd. by deed recorded in Vol. 13257 Pg. 1252 of the Deed Records of Travis County Texas for the Northwest corner of said Calbow tract and the Northwest corner of this tract.

THENCE S 60°08'16" E 356.84 feet to a capped iron pin marked "CMN" found on the West line of the Lone Star Subdivision as recorded in Book 56 Page 60 of said Plat Records for the Southeast corner of said Congress Access Ltd. tract, the Northeast corner of said Calbow tract, and the Northeast corner of this tract.

THENCE S 26°38'56" W with the West line of the above mentioned Lone Star Subdivision 205.10 feet to a capped iron pin set in the Northeast corner of Lot 1 of the St. Elmo-Tel Addition for the Southeast corner of said Calbow tract and the Southeast corner of this tract.

THENCE N 60°18'06" W with the North line of the above mentioned St. Elmo-Tel Addition 170.39 feet to an iron found pin found in an ell corner of said Calbow tract and the Southeast corner of said Chen Resubdivision for an ell corner of this tract.

THENCE with the West line of said Calbow tract for the following two (2) courses:

- 1) N 26°37'33" E 174.57 feet to a PK nail found in pavement at the beginning of a curve to the left, said curve having a radius of 10.00 feet and a delta angle of 86°47'10"
- 2) with the arc of the said curve 15.15 feet said curve having a long chord which bears N 16°44'14" W 13.74 feet to a PK nail set in pavement for the end of said curve.

THENCE N 60°18'40" W 178.17 feet to the POINT OF BEGINNING containing 0.896 acres of land, more or less

I, Claude F. Hinkle, Jr., a Registered Professional Land Surveyor, do hereby certify that these field notes accurately represent the results of an on-the-ground survey made under my supervision during July of 2006 and are correct to the best of my knowledge and belief. These field notes are to be used only for the transfer of title to Cobalt Partners. Any use by these or any other parties for any other purpose or transaction is expressly prohibited.



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Claude F. Hinkle, Jr.
R.P.L.S. No. 4629

AUG 01 2006

Date 1500-Calbow doc

Exhibit "A"